



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG-2014-0231

RIN 1625-AA00

Safety Zone; Monongahela River; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Monongahela River mile 68.0 to mile 68.8. This safety zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the Rices Landing Riverfest Fireworks Display. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Pittsburgh or a designated representative.

DATES: This rule is effective from 9:15 p.m. until 10:30 p.m. on June 13, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0231. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on Open Docket Folder on

the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ronald Lipscomb, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412-644-5808, e-mail Ronald.c.lipscomb1@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not using the NPRM process. The Coast Guard received notice on March 27, 2014 that this display would take place. After full review of the event information and location, the Coast Guard determined that a safety zone is necessary. Delaying this rule by completing the full NPRM process would unnecessarily delay the safety zone and be contrary to public interest because the safety zone is needed to protect transiting vessels, spectators, and the personnel involved in the display from the hazards associated with fireworks displays taking place near and over the waterway. The fireworks display has been advertised and the local community has prepared for the event. Completing the full NPRM process could also unnecessarily delay the planned event and possibly interfere with contractual obligations.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying this rule by providing a full 30 days notice would be contrary to public interest because immediate action is needed to protect persons and property in the area during the land-based fireworks display.

B. Basis and Purpose

On June 13, 2014, as a part of the Rices Landing Riverfest Fireworks Display, the Rices Landing Volunteer Fire Department

will sponsor a land-based fireworks display. The display will take place in the vicinity of Old Lock 6 at mile 68.3 the Monongahela River. This event presents safety hazards for spectators and vessels navigating in the area, and therefore a safety zone is needed to protect persons and property from the hazards associated with a fireworks display near and over the waterway.

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone for all waters of the Monongahela River, from mile 68.0 to mile 68.8, extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons except persons and vessels specifically authorized by the Captain of the Port Pittsburgh. This rule is effective on June 13, 2014 and will be enforced from 9:15 p.m. until 10:30 p.m.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize

our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). This rule is limited in scope and will be in effect for a limited time period and notifications will be made to the marine community by contacting local industry contacts that could be operating in the area during the event. Deviation from the rule may be requested and will be considered on a case-by-case basis by the Captain of the Port or a designated representative. The impacts on routine navigation are expected to be minimal.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 - 612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Monongahela River, mile 68.0 to 68.8 from 9:15 p.m. until 10:30 p.m. on June 13, 2014. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule is limited in scope and will be in effect for a limited time period and notifications to the marine community will be made by contacting local industry contacts that could be operating in the area during the event. Deviation from the rule may be requested and will be considered on a case-by-case basis by the Captain of the Port or a designated representative.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with,

Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT", section to coordinate

protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety

Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category

of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a safety zone for waters of the Monongahela River, from mile 68.0 to 68.8. This rule is categorically excluded from further review under paragraph 34(g) of figure 2-1 of the Commandant Instruction an environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

Part 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

2. A new temporary § 165.T08-0231 is added to read as follows:

§ 165.T08-0231 Safety Zone, Monongahela River, Pittsburgh, PA.

(a) Location. The following area is a safety zone: all waters of the Monongahela River, mile 68.0 to 68.8, extending the entire width of the waterway.

(b) Effective date. This rule is effective, and will be enforced, from 9:15 p.m. until 10:30 p.m. on June 13, 2014.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Pittsburgh or a designated representative. The Captain of the Port Pittsburgh representative may be contacted at 412-644-5808.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers.

(d) Information Broadcasts. The Captain of the Port Pittsburgh or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: May 12, 2014

L. N. WEAVER,
Commander, U.S. Coast Guard
Captain of the Port Pittsburgh

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